

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION

TRESA M. RICHARDSON, )  
                          )  
                          Plaintiff, )  
                          )  
                          v. )                          No. 2:07 CV 17 DDN  
                          )  
MICHAEL J. ASTRUE, )  
Commissioner of Social Security, )  
                          )  
                          Defendant. )

MEMORANDUM AND ORDER

This action is before the court upon the application of plaintiff Tresa M. Richardson for an award of an attorney's fee under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. Plaintiff seeks a fee for 13.1 hours work at \$225.00 per hour, for a total of \$2,947.50. Plaintiff does not seek reimbursement of \$250.00 for the court filing fee.

This court remanded this action for further proceedings under Sentence Four of 42 U.S.C. § 405(g). The EAJA provides in pertinent part, "a court shall award to a prevailing party . . . fees and other expenses. . . ." 28 U.S.C. § 2412(d)(1)(A).

Defendant Commissioner of Social Security does not take issue with the number of hours billed, but objects that the hourly rate is too high. Defendant argues counsel should be allowed to enhance his hourly rate pursuant to 28 U.S.C. § 2412(d)(2)(A), which permits enhancement for cost of living increases, but contends an enhancement to \$165.19 per hour is appropriate based on cost of living increases between 1996 and 2007, citing Inflation Calculator, U.S. Bureau of Labor Statistics, available at [http://www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm).

In support of his application, counsel submitted an affidavit attesting that (1) plaintiff was not represented by counsel at the ALJ hearing; (2) he began representation of plaintiff after plaintiff's hearing, at which time he had no detailed knowledge of the testimony or medical records at the time the appeal had to be filed; (3) he spent half of the number of hours of work typically spent on a case of this type;

(4) his hourly rate is based on his experience handling social security claims and the results achieved; and (5) plaintiff has limited access to attorneys who handle these type of cases because she lives in a small town in northeast Missouri; and (6) that this court previously approved counsel's \$225.00 hourly rate in a different 2006 case. Plaintiff supports factor (4) with information that when she filed this action she lived in Saverton, Missouri, a town of less than 200 people in northeast Missouri.

In response to the facts, defendant has not proffered any facts other than the denial that there is a dearth of qualified counsel for social security appeals in plaintiff's area.

The court concludes that in light of the above, counsel's requested hourly rate of \$225.00 is reasonable.

For these reasons,

**IT IS HEREBY ORDERED** that plaintiff's application for attorney's fees (Doc. No. 20) under the Equal Access to Justice Act, 28 U.S.C. § 2412, is sustained. Plaintiff is awarded the total sum of \$2,947.50, representing 13.1 hours at \$225.00 per hour.

**IT IS FURTHER ORDERED** that the aforesaid attorney's fee shall be paid directly to plaintiff's counsel.

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/S/ David D. Noce  
UNITED STATES MAGISTRATE JUDGE

Signed on October 20, 2008.